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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CONSTANCE SIMS and SAMMY RODRIGUEZ, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

KIA MOTORS AMERICA, INC., and KIA MOTORS CORPORATION,

Defendants.

Case No. 8:13-cv-01791-AG-DFM

CLASS ACTION

JOINT RULE 26(f) REPORT

Conference: March 17, 2014
Time: 9:00 a.m.
Court: 10D
Judge: Hon. Andrew J. Guilford

Pursuant to Fed. R. Civ. P. 26(f), Local Rule 26-1, and this Court's Order re Early Meeting of Parties and Scheduling Conference (Dkt. No. 25), Plaintiffs Constance Sims and Sammy Rodriguez, and Defendants Kia Motors America, Inc. and Kia Motors Corporation (collectively, the "Parties") have conferred and respectfully submit this Joint Rule 26(f) Report.

I. STATEMENT OF THE CASE

Plaintiffs' Summary:

Plaintiffs bring this class and representative action on behalf of a Class defined as all persons who purchased, leased and/or currently own or lease a Kia vehicle model that (i) has a gas tank that is either not connected to the underside of the vehicle with reinforcing straps or is not protected by a whole-tank shield, or (ii) has a plastic fuel pump service cover that is accessible from the passenger compartment of the car (hereinafter "Defective Vehicles"). Plaintiffs allege that the Defective Vehicles contain gas tanks that are defective and dangerous because:

a. The gas tank is located immediately underneath the rear passenger seats and forward of the cargo area and is not sufficiently protected by shields or attached to the underside of the vehicle with reinforcing straps. This increases the risk that the gas tank will shift or dislodge and ignite in a major collision.

b. The service cover for the fuel pump is plastic and is located immediately underneath the rear seat cushion. This location, coupled with the use of a plastic instead of a metal fuel pump service cover, increases the likelihood that, in a major collision, fire will penetrate the rear cabin through the plastic service cover like a "blow torch."

Plaintiffs allege that these gas tank defects present a significant and unreasonable safety risk exposing Defective Vehicle owners and their passengers to a risk of serious injury or death. Passengers sitting in the rear seats in Defective Vehicles are sitting atop veritable gas bombs that, in a major collision, have the propensity to explode and immediately engulf rear occupants in flames. There has been at least one accident in which this nightmare scenario resulted, killing three passengers traveling in a Defective Soul in Texas.

Plaintiffs allege that Kia's sale of the Defective Vehicles and failure to disclose the gas tank defects constitute a violation of California's Unfair Competition Law, a violation of California's Consumer Legal Remedies Act, a violation of the California False Advertising Law, breach of the implied warranty of merchantability, and fraudulent concealment.

Defendants' Summary:

Defendants Kia Motors America, Inc. and Kia Motors Corporation (collectively, "Defendants") produce and market the popular Kia Soul, a distinctively designed urban hatchback that debuted with the 2010 model year. To date, Kia has sold over 300,000 Soul vehicles in the United States. The Soul has won a number of industry awards and recognitions for its design, safety, and retention of resale value. The Kia Soul complies with all applicable Federal Motor Vehicle Safety Standards required for its sale in the United States.

Plaintiffs brought this putative nationwide class action alleging that Defendants misled consumers about the safety and performance of the Kia Soul's fuel system, and that Defendants' purported misrepresentations and non-disclosure of alleged fuel tank defects violated California law. Plaintiffs claim that the fuel tank of the Soul is defective because it is located under the rear passenger seats, is not secured by reinforcing straps or a whole-tank shield, and has a fuel pump service cover made of plastic. The only basis pled in the complaint for the allegation of a product defect is a single car accident involving a Soul that occurred in Fort Worth, Texas in April 2013. Defendants believe that Plaintiffs' allegations do not establish a plausible defect or plead any cognizable injury and have moved to dismiss the complaint on that basis.[1] Should this case proceed to discovery, however, Defendants will prove that the Soul's fuel tank is not defective and that the Texas accident arose from a unique set of circumstances having nothing to do with the design of the Soul, which have never been replicated. Indeed, although they claim that the Soul fuel tank is a "veritable gas bomb," Plaintiffs do not allege that they have stopped driving their Souls or tried to sell their vehicles. More to the point, Plaintiffs do not allege that a different fuel tank design would have prevented the tragic accident in Texas last April. There is simply no basis for this lawsuit—much less for a nationwide class action.

II. PARTIES

All Defendants have been served with the Second Amended Class Action Complaint and made their appearance. At this time, the Parties do not anticipate that additional parties will appear in the case.

III. DISCOVERY PLAN

A. Initial Disclosures

The Parties propose that the disclosures required by Rule 26(a) be made 30 days after the Court issues its ruling on Defendants' pending motion to dismiss/and or strike. At this time, the Parties do not anticipate requesting any changes to the form of such disclosures.

B. Subjects on Which Discovery May be Needed

Plaintiffs intend to take discovery into, among other things, Defendants' advertising and marketing programs and warranties; the design of fuel tanks across various Kia vehicle models; warranty claims and repair experience related to the Kia fuel tanks; consumer complaints relating to fuel tank movement and fires in Kia vehicles; Kia's knowledge of the impact that collisions have on its vehicles' fuel tanks; Kia's knowledge of the relevant defects in its vehicles' fuel tanks; the number and identification of individuals or entities that purchased, leased, and/or currently own or lease a Kia vehicle model that (i) has a gas tank that is either not connected to the underside of the vehicle with reinforcing straps or is not protected by a whole-tank shield, or (ii) has a plastic fuel pump service cover that is accessible from the passenger compartment of the car; and Kia's contacts with the State of California and other states.

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[1] On February 3, 2014, Defendants filed a motion to dismiss and/or strike the Second Amended Class Action Complaint (Dkt. No. 31) to address a number of fatal deficiencies in Plaintiffs' pleadings. The motion is set for hearing on March 17, 2014.

Defendants intend to take discovery into, among other things, advertising and marketing materials allegedly viewed and relied upon by Plaintiffs prior to their purchase of their Kia Souls; Plaintiffs' driving habits and usage of their Kia Souls; Plaintiffs' service and maintenance of their Kia Souls; the circumstances of Plaintiffs' purchases of their Kia Souls; the relationship between Plaintiffs and persons involved in the April 2013 Texas collision; the nature and causes of the Texas collision; and the experiences of putative class members with their Souls, including their purchase and use of the vehiclesand their exposure to and reliance on advertising and marketing materials for the Kia Soul.

The Parties agree that discovery should not be formally bifurcated or phased, although the Parties intend to focus early discovery on issues related to the class certification motion. The Parties intend to work together to meet this goal and to avoid early discovery on issues not directly related to class certification.

The Parties' proposed discovery dates are included in the Proposed Case Schedule set forth immediately below.

C. Discovery of Electronically Stored Information ("ESI")

The Parties have agreed that an ESI protocol is needed. Defendants propose that the relevant provisions of the Federal Rules of Civil Procedure (Rules 26, 33, 34, 37, and 45) as well as the Standing E-Discovery Order of this Court control in this proceeding. The Parties will continue to discuss these issues, including whether to propose any changes to the Court's Standing E-Discovery Order. Defendants have confirmed that both Kia Motors America, Inc. and Kia Motors Corporation have circulated a written Preservation Notice instructing employees to preserve relevant information related to the 2010-2013 model years Kia Soul and its fuel system. Without waiving any arguments regarding privilege, Defendants will provide Plaintiffs with a list of custodians Defendants have designated as "key" custodians at Kia Motors America, Inc. and Kia Motors Corporation, and subject to considerations of reasonableness and burden, will add additional custodians as necessary. Defendants will seek to obtain the same information from Plaintiffs' counsel.

D. Claims Relating to Privilege and the Confidentiality of Information

The Parties believe that the Court's Standing Protective Order sufficiently addresses (i) the designation of material as confidential, highly confidential – attorney eyes only, and highly confidential – source code; challenges thereto; (ii) access to designated material; (iii) a prosecution bar; (iv) protected material subpoenaed or ordered produced in other litigation; (v) unauthorized disclosure of designated material; (vi) inadvertent production of privileged or otherwise protected material; (vii) filing under seal; and (viii) the handling of designated material after final disposition of the case. At this time, the Parties see no need to alter the provisions contained in the Court's Standing Protective Order.

E. Changes to Limitations on Discovery or other Limitations

At this time, the Parties do not believe that any changes are necessary to the limitations of discovery imposed under the Federal Rules of Civil Procedure or the Local Rules. The Parties have agreed that, as consideration for Kia Motors Corporation's agreement to not assert its rights under the Hague Convention, Kia Motors Corporation ("KMC") is provided an additional 60 days in addition to the time permitted under the Rules to serve Plaintiffs with objections and/or responses to all discovery requests propounded by Plaintiffs; Plaintiffs must provide KMC with a written deposition notice a minimum of 75 days before an agreed upon deposition date; and KMC agrees to produce one Rule 30(b)(6) corporate representative in the United States, but any other deposition of a Rule 30(b)(6) corporate representative, if required, or of any other KMC witness, must take place in Korea.

F. Additional Orders

At this time, the Parties do not anticipate the need for additional orders under Rule 16(b) and (c) and Rule 26(c), with the exception of the Court's Standing Protective Order and an ESI Discovery Protocol.

IV. PROPOSED CASE SCHEDULE

The Parties propose that the Court adopt the following Case Schedule, which includes dates for the disclosure of expert testimony and relevant motion deadlines.

The trial date proposed below is based on the parties' current knowledge. The parties recognize that, in the event any of Plaintiffs' claims is certified and the case proceeds beyond class certification, the period of discovery following certification and the trial date may have to be adjusted depending on the scope of any claims certified.

Event	Day	Date
Initial Disclosures/Fact Discovery May Begin	-	30 days after ruling on MTD
Deadline for Plaintiffs to Identify All Experts on Whom They Will Rely in Support of Class Certification	Fri.	Oct. 17, 2014
Deadline to Serve Any Expert Reports or Declarations on Which Plaintiffs Will Rely in Support of Class Certification	Fri.	Oct. 17, 2014
Deadline for Defendants to Identify All Experts on Whom They Will Rely in Opposition to Class Certification	Mon.	Nov. 17, 2014
Deadline to Serve Any Expert Reports or Declarations on Which Defendants Will Rely in Opposition to Class Certification	Mon.	Nov. 17, 2014
Plaintiffs to File Motion for Class Certification	Mon.	December 1, 2014
Defendants to File Opposition to Motion for Class	Mon.	Feb. 2, 2015

Event	Day	Date
Certification		
Plaintiffs to File Reply in Support of Motion for Class Certification	Mon.	Mar. 2, 2015
Hearing on Motion for Class Certification	**Mon.**	**Mar. 23, 2015**
Parties to Exchange List of All Expert Witnesses Expected to Be Called at Trial Pursuant to Rule 26(a)(2)(A)	Wed.	Jun. 03, 2015
Parties May Supplement Their Expert Designations in Response to Other Parties' Designations	Tue.	Jun. 23, 2015
Deadline to Propound Discovery	Wed.	Jun. 10, 2015
Deadline for Parties to Exchange Non-Class Expert Witness Reports	Fri.	Jul. 24, 2015
Discovery Cutoff	**Fri.**	**Aug. 07, 2015**
Last Day to File Dispositive Motions	**Mon.**	**Sep. 07, 2015**
Last Day to Conduct a Settlement Conference	Fri.	Sep. 25, 2015
Hearing on Dispositive Motions	**Mon.**	**Oct. 05, 2015**
Final Pretrial Conference	**Mon.**	**Nov. 02, 2015**
Trial Begins	**Wed.**	**Dec. 02, 2015**

V. TRIAL

The parties propose that trial begin on or around December 2, 2015. Plaintiffs believe that trial can be completed within 10 trial days. Defendants estimate that trial of the named plaintiffs' individual claims will last 14 trial days. In the event that a class is certified, Defendants may provide a revised trial estimate based on the claims and scope of any class that is certified. Plaintiffs have demanded a jury trial on claims triable to a jury.

VI. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

The Parties have not had any settlement discussions to date. The Parties agree that it may be too early to engage in meaningful settlement discussions prior to the resolution of Defendants' pending motions and before the Parties have conducted any discovery.

The Parties select ADR Procedure No. 3 (private mediation), in accordance with General Order 11-10, § 5.1 and Local Rule 16-15.4. The Parties believe that private mediation should occur near or after the close of discovery, which is August 7, 2015 under the Parties' Proposed Schedule.

VII. MANUAL FOR COMPLEX LITIGATION

The parties anticipate that some, but not all, of the class action procedures described in the MANUAL FOR COMPLEX LITIGATION may be useful. But, at this early stage in the litigation, the Parties do not propose the adoption of any particular procedure from the MANUAL.

DATED: March 10, 2014 HAGENS BERMAN SOBOL SHAPIRO LLP

By: */s/ Steve W. Berman*

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ATTESTATION

I hereby attest that the other signatories listed, on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

DATED: March 10, 2014 HAGENS BERMAN SOBOL SHAPIRO LLP

By: */s/ Steve W. Berman*

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CERTIFICATE OF SERVICE

On March 10, 2014, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

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